



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,252	03/17/2004	Nick Dana Phillips		2285

7590 10/05/2004  
NICK DANA PHILLIPS  
E-8767 CUT-OFF Rd.  
NEW LONDON, WI 54961

EXAMINER

NGUYEN, TRINH T

ART UNIT PAPER NUMBER

3644

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/801,252	PHILLIPS, NICK DANA	
	Examiner	Art Unit	
	Trinh T Nguyen	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 1-8 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

#### ***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

#### ***Drawings***

3. The drawings are objected to because it is unclear as to which drawing is referred to as Figure 3 since there are three drawings indicated for Figure 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an

Art Unit: 3644

amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency.

Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The disclosure is objected to because of the following informalities: note that the disclosure ends with page number 5 with no brief description and/or support of the several views of the drawing(s) (see MPEP § 608.01(f). A reference to and brief

Art Unit: 3644

description of the drawing(s) as set forth in 37 CFR 1.74. Appropriate correction is required.

***Claim Objections***

6. Claims 1-8 are objected to because of the following informalities: period may not be used elsewhere in the claim except for abbreviations and where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation (see 37 CRR 1.75 and MPEP § 608.01(m)). Appropriate correction is required. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In this case, the specification does not sufficiently explain and/or described to enable one skilled in the art to understand how the ice-fishing tip-up is operating (i.e. lines 1-15 of page 4 of the specification is confusing and not comprehensible).

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3644

10. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are replete with indefinite phrases too numerous to mention completely. Applicant is required to carefully review the claims wherever appropriate in order to clarify what is being claimed.

The following are examples only and not intended to be a complete listing thereof:

Claim 1 comprises a plurality of elements (and/or sentences) which end with periods; therefore, it is unclear which elements (and/or sentences) are being claimed (i.e. "a support structure" or "an upright" or "a band" or "a spool" or "a spring"). For the purpose of this Office Action, it is assumed that a support structure is being claimed. Note that only the limitation "A. Support structure for supporting said tip-up on a surface of ice through which a user wishes to fish." in claim 1 and any claims (i.e. claim 3 and its dependencies which are claims 4-7) which pertain to the "support structure" are being examined.

In claim 3, the phrase "with said cut slot which said band with attached wind device and said attached flag" is confusing and unclear because there are no definitions as to what "said cut slot" or "said band" or "wind device" or "said attached flag" defines and/or implies. Therefore, it is not understood what is being claimed.

In claim 4, the phrase "said attached flag which consists of two weights which slide back and forth" is confusing and unclear because there are no definitions as to

Art Unit: 3644

what "said attached flag" or "two weights" defines and/or implies. Therefore, it is not understood what is being claimed.

In claim 5, the phrase "said attached flag has bend on end for said barrel swivel" is confusing and unclear because there are no definitions as to what "said attached flag" or "said barrel swivel" defines and/or implies. Therefore, it is not understood what is being claimed.

In claim 6, the phrase "said attached flag rear of flag has said bend with said cloth flag" is confusing and unclear because there are no definitions as to what "said attached flag rear of flag" or "said cloth flag" defines and/or implies. Therefore, it is not understood what is being claimed.

In claim 7, the phrase "said flag is attached to said band with said pin with said end of steel band which steel is bent around said pin back to said band on edges of cut end which said ears are riveted" is confusing and unclear because there are no definitions as to what "said flag" or "said band" or "said pin" or "said end of steel band" or "steel" or "said ears" defines and/or implies. Therefore, it is not understood what is being claimed.

### ***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3644

12. Claims 1, and 3-7 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Lindsey, Jr. (US 3,727,342).

Lindsey, Jr. discloses an ice-fishing tip-up having a support structure (32, 19, 31) for supporting the tip-up (30) on a surface of ice (D) through which a user wishes to fish and a rotating spool (90) attached to support structure with cut slot which band (50M) with attached wind device and attached flag (50, 63).

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as cited on PTO-form 892.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T Nguyen whose telephone number is (703) 306-9082. The examiner can normally be reached on M-F (9:30 A.M to 6:00 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (703) 305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Application/Control Number: 10/801,252  
Art Unit: 3644

Page 8

A handwritten signature in black ink, appearing to read 'Trinh T. Nguyen', with a long horizontal flourish extending to the right.

Trinh T Nguyen  
Patent Ex.  
Art Unit 3644